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Attorney for Debtor

UNITED STATES BANKRUPTCY COURT

DISTRICT OF ARIZONA

In re:

Chapter 13

ERIN A. WILLETT,

Case No. 4:19-BK-15365-BMW

Debtor.

**OBJECTION TO PROOF OF CLAIM
NO. 4 OF QUANTUM3 GROUP LLC AS
AGENT FOR AQUA FINANCE;
NOTICE OF OBJECTION TO CLAIM;
AND CERTIFICATE OF SERVICE**

COMES NOW the Debtor, by and through counsel undersigned, and hereby objects to Claim No. 4 Quantum3 Group as agent for Aqua Finance (“Quantum3”) for the reasons set forth below.

1. The Debtor filed for protection under Chapter 13 of the Bankruptcy Code (Title 11 of the United States Code) on April 10, 2019.

². Quantum3 filed Claim No. 4 on December 26th, 2019.

3. Quantum3 filed Claim No. 4 as secured claim. in accordance with 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B)

4. Attached to the proof of claim is a document titled "RETAIL INSTALLMENT CREDIT AGREEMENT - NY"

5. Quantum3 appears to allege that this document creates a secured interest in a Water Treatment System installed at the home of the Debtor.

1 **I. CREDITOR'S CLAIM SHOULD BE DISALLOWED IN IT'S ENTIRETY AS**
2 **CREDITOR HAS NO VALID INTEREST IN A CLAIM**

3

4 6. The alleged installment contract that has been provided by Quantum3 does not show
5 any ownership interest by Aqua Finance or Quantum3. The contract is between Adam Willett, Erin
6 Willett (Debtor) and Arizona Environmental Progress. Quantum3 has provided zero evidence that
7 its client, Aqua Finance, has any rights related to this contract. Moreover – and perhaps even more
8 concerning – is that the claim filed is for \$7,272.60 – when the contract that purportedly supports
9 this claim is for a total of \$5,790 and does not list any interest to be applied nor does it provide a
10 total cost of financing as would be standard under these types of agreements.

11

12 **II. – IF CREDITOR'S CLAIM IS ALLOWED, IT SHOULD BE TREATED AS**
13 **UNSECURED**

14 7. A.R.S. §§47-9101 Et. Seq. controls what types of debts are considered secured in
15 Arizona. There are specific requirements that must be met in order for a lien to attach to personal
16 property and, by law, allow a creditor secured status in a bankruptcy proceeding.

17 8. Quantum3's claim has multiple deficiencies, and if it is allowed as part of this
18 proceeding, due to these deficiencies, it must be treated as unsecured.

19 9. The relevant statutes that are applicable to determining whether Quantum3's claim
20 is secured are as follows:

21 A. Subject to subsection B of this section, a financing statement is sufficient
22 only if it:

- 23 1. Provides the name of the debtor;
- 24 2. Provides the name of the secured party or a representative of the secured
25 party; and
- 26 3. Indicates the collateral covered by the financing statement.

27 B. Except as otherwise provided in section 47-9501, subsection B, to be
28 sufficient, a financing statement that covers as-extracted collateral or timber to be
29 cut, or that is filed as a fixture filing and covers goods that are or are to become
30 fixtures, must satisfy subsection A of this section and also:

- 1 1. Indicate that it covers this type of collateral;
2 2. Indicate that it is to be filed in the real property records;
3 3. Provide a description of the real property to which the collateral is related;
and
4 4. If the debtor does not have an interest of record in the real property, provide
the name of a record owner. A.R.S. §§47-9502(A-B)

5 Additionally, "Fixtures" means goods that have become so related to particular real property that
6 an interest in them arises under real property law. Lastly:

- 7 D. Except as otherwise provided in subsection H of this section, a perfected security
8 interest in fixtures has priority over a conflicting interest of an encumbrancer or
9 owner of the real property if the debtor has an interest of record in or is in possession
of the real property and:
10 1. The security interest is a purchase money security interest;
11 2. The interest of the encumbrancer or owner arises before the goods become
fixtures; and
12 3. The security interest is perfected by a fixture filing before the goods become
fixtures or within twenty days thereafter. A.R.S.

13 10. A water treatment system is clearly a fixture. The agreement filed along with
14 the proof of claim is completely deficient on it's face based on Arizona law as cited above.
15 Moreover, no fixture filing was completed with the Pinal County Recorder for almost a year
16 after the date of the agreement provided with the Proof of Claim.

17
18 WHEREFORE, the Debtor respectfully requests that this Honorable Court enter an Order
19 excluding Proof of Claim 4, or alternatively reclassifying the claim as a general unsecured claim.

20
21 DATE: May 1, 2020 April 30th, 2020

MY ARIZONA LAWYERS

22
23 By: 

24 Ryan A. Dorn, Esq.
1731 W. Baseline Rd., Ste. 101
Mesa, AZ 85202
25 Attorney for Debtor

1 **NOTICE OF OBJECTION TO CLAIM NO. 4 OF QUANTUM3 GROUP LLC AS AGENT**
2 **FOR AQUA FINANCE**

3 NOTICE IS HEREBY GIVEN that the Debtor has filed an Objection to Claim No. 4 of
4 Quantum3 Group LLC as Agent for Aqua Finance and that a copy of the Objection is on file with
5 this Court and may be viewed at the Court located at 230 North First Avenue, Suite 101, Phoenix,
6 Arizona or on the internet at <https://ecf.azb.uscourts.gov>;

7 ///

8 FURTHER NOTICE IS GIVEN in accordance with Rule 3007-1(a), Local R. Bankr. P.,
9 any response or objection to the Objection to Claim must be filed with the Court and served on the
10 parties listed below no later than 14 days after service of the Objection; if no response or objection
11 is timely filed and served, the Court may enter an Order granting the relief requested by the Debtor;
12 if an objection or other response is filed then Debtor's counsel shall notice the matter for a hearing.

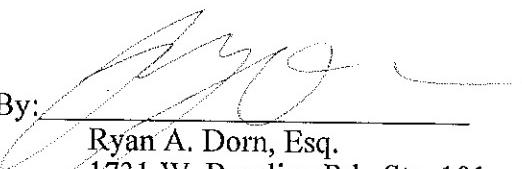
13 Court: Clerk U.S. Bankruptcy Court
14 230 N. First Ave., Ste. 101
 Phoenix, AZ 85003
 <https://ecf.azb.uscourts.gov>

15 Chapter 13 Trustee: Dianne C. Kerns
16 31 N. 6th Ave #105-152
 Tucson, AZ 85701

17 Debtor: Erin A. Willett
18 6516 E Lush Vista View.
 Florence, AZ 85132

19 Debtor's Counsel: Ryan A. Dorn, Esq.
20 My Arizona Lawyers, PLLC
 1731 W. Baseline Rd., Ste. 101
 Mesa, AZ 85202

21 DATE: May 1, 2020 MY ARIZONA LAWYERS, PLLC

23 By: 

24 Ryan A. Dorn, Esq.
25 1731 W. Baseline Rd., Ste. 101
 Mesa, AZ 85202
 Attorney for Debtor

CERTIFICATE OF SERVICE

I Ryan Allen Dorn hereby certify under penalty of perjury that I am over the age of 18, and that on May 1, 2020 I served via regular first class U.S. Mail, postage prepaid, true and correct copies of the foregoing Objection to Claim and Notice of Objection to Claim on the following parties:

Dianne C. Kerns
31 N. 6th Ave #105-152
Tucson, AZ 85701

Quantum3 Group LLC as agent for Aqua Finance
PO Box 788
Kirkland, WA 98083-0788

Erin A. Willett
6516 E Lush Vista View.
Florence, AZ 85132

DATE: May 1 2020

Ryan A. Dorn, Esq.
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